



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON
ATTORNEY GENERAL**

August 16, 1960

Honorable Doug Crouch
Criminal District Attorney
Tarrant County Courthouse
Fort Worth, Texas

Opinion No. WW-904

Re: Authority of the Board of
Managers of the Tarrant
County Hospital District
to adopt a retirement pro-
gram for the benefit of its
employees.

Dear Mr. Crouch:

You have requested an opinion of this office relative to the authority of the Board of Managers of the Tarrant County Hospital District to adopt a retirement program for the benefit of its employees.

Section 3 of Article IX of our Texas Constitution provides that the Legislature may by law authorize the creation of countywide hospital districts in certain counties. This provision is silent as to retirement benefits for the officials and employees of the hospital district. However, the enabling Act (Article 4494n, Vernon's Civil Statutes) enacted by the Legislature in 1953, provides two methods by which the Board of Managers may establish retirement programs for its employees. These provisions are:

Section 5 of Article 4494n, Vernon's Civil Statutes, which provides:

" . . . Further, under the same conditions, the Board of Managers may enter into such contracts with the State and Federal Government as may be necessary to establish or continue a retirement program for the benefit of its employees. . . ."

and Section 5a, which states:

"The Board of Managers may in addition to retirement programs authorized by this Act establish

such other retirement program for the benefits of its employees as it deems necessary and advisable."

With these provisions in mind, your inquiry resolves itself into a question of the proper procedure the Board must take in order to establish a retirement program, i.e., must the qualified voters of the county authorize such action by the Board.

The Texas Constitution, in dealing with other units of government, requires that a majority vote of the qualified voters must first approve a retirement program before one may be established. These provisions are:

Section 62 (b), Article XVI, Texas Constitution:

"Each county shall have the right to provide for and administer a Retirement, Disability and Death Compensation Fund for the appointive officers and employees of the county; provided same is authorized by a majority vote of the qualified voters of such county . . ." (Emphasis ours)

Section 51-e, Article III, Texas Constitution:

"Each incorporated city and town in this State shall have the power and authority to provide a system of retirement . . . for its appointive officers and employees . . . when and if, but only when and if, such system has been approved at an election by the qualified voters of such city or town entitled to vote on the question of issuance of tax supported bonds; . . ."

These provisions, however, do not pertain to a County Hospital District. A County Hospital District is a political subdivision of the State which is a different governmental body from that of a city or county. Bexar County Hospital District v. Crosby, 327 S.W. 2d 445, Attorney General Opinion No. WW-886 (1960).

Since the Legislature has granted to the Board of Managers of a County Hospital District wide discretion in this field without the necessity of taking the matter before the voters of the county, we are of the opinion that the Board of Managers of the Tarrant County Hospital District has authority to adopt a

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retirement program for the benefit of its employees upon its own motion without the approval of the qualified voters of the county.


S U M M A R Y

The Board of Managers of the Tarrant County Hospital District has the authority to adopt a retirement program for the benefit of its employees.

Yours very truly,

WILL WILSON
Attorney General of Texas

By


James M. Farris
Assistant

JMF:hb:mm

APPROVED:

OPINION COMMITTEE
Gordon C. Cass, Chairman

Virgil R. Pulliam
Linward Shivers
William H. Pool, Jr.
Marvin H. Brown, Jr.

REVIEWED FOR THE ATTORNEY GENERAL

BY: Leonard Passmore